

policy above the normal abortion politics.

Now, there is still the heart of the matter here that under the 14th amendment, as provided in Roe, "person" as used in the 14th amendment does not include the unborn. We cannot change that. We are not here to change it today. In the 28 years since Roe, the Supreme Court has never afforded legal personhood to a fetus. So in the name of all of the women and the men in this country that support a woman's right to choose, please join with me in supporting the Lofgren-Conyers substitute. We think it would be a beautiful day forward, and we will give this bill the life that it needs to go to the other body.

Mr. Speaker, I urge the support of the substitute and the rejection of the base bill, H.R. 503.

Mr. CHABOT. Mr. Speaker, I yield myself 15 seconds. Once again, we keep hearing the term, "a woman's right to choose"; and I just want to say again that the woman chose to have the baby, it is the criminal that took away her right by killing her baby. And we are just trying to make it tougher on those criminals and to make the penalties much tougher and make it a separate offense if they take that child's life or harm that life.

Mr. Speaker, I yield the balance of my time to the gentleman from South Carolina (Mr. GRAHAM), a proponent of this bill.

Mr. GRAHAM. Mr. Speaker, I thank the gentleman for yielding me this time.

I respectfully disagree with the gentleman from Michigan (Mr. CONYERS), my good friend. I am asking my colleagues to vote against the substitute and for the underlying bill.

When one writes a bill that says you cannot prosecute someone under the bill who is performing a lawful abortion, you can never prosecute the mother for any of her conduct, you cannot prosecute medical providers, one would think it would not be about abortion. But some people want to talk about that, and that is politics. That is okay. That is the way politics works.

I want to talk about the law and common sense. If one is a prosecutor and can pick between the substitute and my bill, I think every prosecutor I know of would pick my bill, because you could really have the full force and effect of the law against the criminal.

Abortion rights are not going to be enhanced by voting against my bill and for the substitute. The only person that wins is the criminal. In the Arkansas case, she was begging for her baby's life and the criminal was saying, "Your baby is dying tonight." Let us get together as a Congress in saying, once the woman chooses to have the baby and she is assaulted by a criminal who is paid to terminate her pregnancy through beating her and her baby to death, that that is a crime, not a fiction.

She is begging for the baby's life; the man is saying, "I am going to take

your baby away from you tonight." Let us have a statute that allows that person to be prosecuted for what they intended to do, and that is, kill the unborn child; and in that statute, you protect Roe v. Wade rights.

The pro-choice people who voted for my bill last year, thank you. You can be pro-choice and not pro-abortion. People say that it is possible. This is a case of being pro-choice, but not being pro-abortion because there is no reason to let the criminal go or diminish their punishment with a poorly drafted substitute, simply because one is worried about abortion when it is not covered by the bill.

Let us focus our energies on putting criminals in jail when the mother chooses to have the baby. America will be better, prosecutors will have better tools, and we can go home and look pro-life and pro-choice people in the eye and say, Congress responded to a very serious event in a very logical way.

Please vote for the bill and against the underlying substitute. A lot is at stake. America will be better if we could pass this bill.

Mr. LEVIN. Mr. Speaker, I rise in strong support of the Lofgren substitute. Unlike the underlying bill before the House today, the substitute truly addresses the serious issue of violence against women and would impose stricter penalties for causing harm to a fetus or forcibly terminating a pregnancy than exist today.

Surely if we can find common ground on nothing else, we should all be able to agree that crimes against women that cause the loss of a pregnancy are tragic and deplorable acts. These crimes ought to be punished severely.

The fundamental problem with the underlying bill is that it ignores where and when these crimes most often occur. H.R. 503 establishes criminal punishments for those who harm a fetus while committing any one of 68 specified federal crimes. The difficulty with this approach is that few of these crimes are actually tried in federal court, and many of the listed offenses are unlikely to result in harm to pregnant women. For example, how many pregnant women are impacted each year as a result of transactions involving nuclear materials? How many pregnancies are lost each year due to assaults or kidnappings of Members of Congress, the President's cabinet or members of the Supreme Court? The answer is: not many.

At the same time, the bill is completely silent on the much more prevalent problem of domestic violence. It is estimated that domestic violence victimizes one million women a year. How can we discuss punishment of violence against pregnant women and ignore the crimes where this violence most often occurs?

The Lofgren substitute, on the other hand, creates legal protection that truly helps women and punishes violence resulting in injury or termination of a pregnancy. It provides for a maximum 20-year sentence for injury to a woman's pregnancy and up to a life sentence for violent conduct against a woman that interrupts or terminates her pregnancy. It makes it a federal crime. The substitute focuses on the harm to the pregnant woman, providing a deterrent against violence.

I urge my colleagues to support the Lofgren substitute and oppose the underlying bill.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in strong opposition to H.R. 503, "Unborn Victims of Violence Act of 2001." I am pleased that the "Lofgren Substitute" to H.R. 503, the "Unborn Victims of Violence Act of 2001," brings the real issue of who is victimized in clear fashion. The substitute would replace the term "unborn children" where it appears in the appropriate places throughout the bill with "violence during pregnancy." The result of my amendment would essentially ensure that the legislation recognizes the pregnant woman as the crime victim, not the "unborn child."

The substitute seeks to address what I believe is a veiled attempt to create a legal status for the unborn. While I sympathize with the mothers who have lost fetuses due to the intentional violent acts of others, I believe, however, that H.R. 503 would obscure the rights of women. The substitute would prevent this legislation from opening the door to future legislation by which a woman could be held civilly or criminally liable for fetal injuries caused by behavior during her pregnancy that might have potentially adverse effects on her fetus including failing to eat properly, using prescription, nonprescription and illegal drugs, being exposed to infectious disease, engaging in immoderate exercise or sexual intercourse or using general anesthetic or drugs to include rapid labor during delivery.

A new status of "human-ness" extended to the unborn fetus of a pregnant woman creates a situation of constitutional uneasiness. While the proponents of this bill claim that the bill would not punish women who choose to terminate their pregnancies, this bill will give anti-abortion advocates a powerful tool against women's choice.

The state courts that have expressed an opinion on this issue have done so with the caveat that while Roe protects a woman's constitutional right to choose, it does not protect a third party's destruction of a fetus. This bill will create a slippery slope that will result in doctors being sued for performing abortions, especially if the procedure is controversial, such as partial birth abortion. Although this bill exempts abortion procedures as a crime against the fetus, the potential for increased civil liability is present. Thus, disenchanted husbands and relatives would be able to bring suit who exercises her right to choose.

Supporters of this bill should address the larger issue of domestic violence. For women who are the victims of violence by a husband or boyfriend, this bill does not address the abuse, but merely the result of that abuse.

I urge my colleagues to vote in favor of the Lofgren Substitute. We do not need this bill to provide special status to unborn fetuses. A better alternative is to create a sentence enhancement for any intentional harm done to a pregnant woman. This bill is simply a clever way of creating a legal status to erode abortion rights.

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to House Resolution 119, the previous question is ordered on the bill and on the amendment offered by the gentlewoman from California (Ms. LOFGREN).

The question is on the amendment in the nature of a substitute offered by the gentlewoman from California (Ms. LOFGREN).